

Shaun Peterson #298007  
Name and Prisoner/Booking Number  
Eynon Complex/Meadows Unit  
Place of Confinement  
PO Box 3300  
Mailing Address  
Florence, Arizona 85132  
City, State, Zip Code

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> LODGED
<b>Mar 08 2022</b>	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Shaun Andrew Peterson,  
(Full Name of Plaintiff)

Plaintiff,

v.

(1) David Shinn,  
(Full Name of Defendant)  
(2) and others,  
(3) \_\_\_\_\_,  
(4) \_\_\_\_\_,

Defendant(s).

Check if there are additional Defendants and attach page 1-A listing them.

**CASE NO. CV-22-00042-PHX-GMS(MTM)**  
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

*Jury Trial Demanded*

Original Complaint  
 First Amended Complaint  
 Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:  
 28 U.S.C. § 1343(a); 42 U.S.C. § 1983  
 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).  
 Other: \_\_\_\_\_.
2. Institution/city where violation occurred: Meadows Unit/Florence.

1. Defendants

2. (1) David Shinn  
3. (2) Walter Hensley  
4. (3) (unknown) Stickley  
5. (4) John Doe #1 (ADW)  
6. (5) John Doe #2 (FHA)  
7. (6) John Doe #3 (DON)  
8. (7) John Doe #4 (ADON)  
9. (8) Maureen Gay  
10. (9) John Doe #5 (REF)  
11. (10) Angel Merriman  
12. (11) H. Dison

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## B. DEFENDANTS

1. Name of first Defendant: David Shinn. The first Defendant is employed as: Director at ADCRR.  
(Position and Title) (Institution)

2. Name of second Defendant: Walter Hensley. The second Defendant is employed as: Warden at Eyman Complex.  
(Position and Title) (Institution)

3. Name of third Defendant: (Unknown) Stickley. The third Defendant is employed as: Deputy Warden at Special Management Unit 1.  
(Position and Title) (Institution)

4. Name of fourth Defendant: Doe #1. The fourth Defendant is employed as: Assistant Deputy Warden at Special Management Unit 1.  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner?  Yes  No

2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:

a. First prior lawsuit:

1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
2. Court and case number: \_\_\_\_\_
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

b. Second prior lawsuit:

1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
2. Court and case number: \_\_\_\_\_
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

c. Third prior lawsuit:

1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
2. Court and case number: \_\_\_\_\_
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

## 1. B. DEFENDANTS

2. 3. John Doe #2 (FHA) ; employed as: Facility Health  
3. Administrator at: Special Management Unit I

4. 6. John Doe #3 (DON) ; employed as: Director of  
5. Nursing at: Special Management Unit I

6. 7. John Doe #4 (ADON) ; employed as: Assistant Director of  
7. Nursing at: Special Management Unit I

8. 8. Maureen Gay ; employed as: Medical Provider/Staff  
9. at: Special Management Unit I

10. 10. (9) John Doe #5 (REF) ; employed as: Correctional Officer II  
11. at: Special Management Unit I

12. 11. (10) Angel Merriman ; employed as: Medical Provider/Staff  
13. at: Special Management Unit I

14. 12. (11) H. Dison ; employed as: Correctional Officer IV  
15. at: Special Management Unit I

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## D. CAUSE OF ACTION

### COUNT I

1. State the constitutional or other federal civil right that was violated: Denial of medical care in violation of Eighth Amendment

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input checked="" type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____	

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

1. On or about March 15, 2015, Plaintiff was transferred to Special Management Unit 1 (SMU 1)
2. The medical department was provided documentation through medical records of Plaintiff's diagnosis of glaucoma and optic neuropathy (since 1990).
3. On February 29, 2016 this was confirmed by ADC's own eye specialist.
4. On October 18, 2018, Plaintiff requested assignment to bottom bunk subsequent to a fall from a top bunk. This Health Needs Request was not processed until 299 days later in violation of policy. The responsibility for processing HNR's falls to Defendants Doe #3, the Director of Nursing and Doe #4, the Assistant Director of Nursing, as supervisors.
5. Between November 1, 2018 and April 2019, Plaintiff's eye medication was repeatedly not refilled. He submitted numerous HNR's requesting refill. These HNR's were ignored. By the end of April, 2019 the lack of eye medication resulted in an infection setting in.
6. On or about April 1, 2019 Plaintiff submitted HNR #2 requesting to be seen for the eye infection. Instead of being taken to medical for the eye infection,

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

The actions or inactions of the Defendants that caused or proximately caused the loss of sight are described in heightened detail per this Court's order filed March 1, 2022 in pages 4-A through 4QQ.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No
- b. Did you submit a request for administrative relief on Count I?  Yes  No
- c. Did you appeal your request for relief on Count I to the highest level?  Yes  No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

1 Defendant Officer Doe #5 signed a Refusal of Medical treatment  
2 form fraudulently without ever consulting with Plaintiff to verify  
3 he wanted to refuse medical treatment.

4 7. Due to this, Plaintiff was not seen for his eye infection  
5 at that time. The infection was allowed to run rampant, causing  
6 much additional pain and suffering, until his optic nerve  
7 "exploded".

8 8. Defendant Officer Doe #5 delayed the necessary medical  
9 treatment Plaintiff needed and as a result of his willful,  
10 and deliberate indifferent actions Plaintiff was rendered blind  
11 on or about May, 2019.

12 9. Between May, 2019 and February, 2021, Plaintiff  
13 submitted no fewer than 18 Health Needs Requests to  
14 alleviate his pain and suffering. None were triaged and  
15 processed according to policy timeframes, prolonging  
16 Plaintiff's immense pain and suffering.

17 10. The responsibility for responding to those HNR's  
18 in a timely manner falls to Defendants Maureen Gay  
19 and Angel Merriman. Most of those HNR's were requesting  
20 his prescribed medications, which were withheld by these  
21 two defendants.

22 11. The responsibility for tracking responses to HNR's  
23 and verifying the continuous supply of prescribed medication  
24 without interruption falls to Defendants John Doe #2, #3, #4.  
25 They each failed to maintain a system for ensuring that  
26 Plaintiff's Health Needs Requests were responded to in a timely  
27 and reasonable manner and that his medications were  
(3-A)

1 supplied in an uninterrupted manner. These failures caused  
2 Plaintiff much additional pain and suffering and further  
3 damage to his eyes,

4 12. On August 6, 2019; September 9, 2019; October 4, 2019;  
5 October 6, 2019; and November 6, 2019 Plaintiff alerted prison  
6 officials of the repeated denials and delays of medical care  
7 for his serious medical needs through Inmate Letters, Informal  
8 Complaints, Grievances, and Grievance Appeals. Instead of addressing  
9 Plaintiff's medical issues, prison officials repeatedly "unprocessed" his  
10 notifications to them for minor technical errors even though Plaintiff  
11 was, by then, almost completely blind and could not read grievance  
12 procedures well enough to do much more than alert them to the  
13 problems he was facing.

14 13. The responsibility for responding to the documents listed  
15 in item 12 falls to Walter Hensley, (unknown) Stickley, John Doe #1, #2,  
16 #3, #4 and H. Dison. Their failures to reasonably respond to  
17 these various methods of notification caused Plaintiff much  
18 additional pain and suffering and further damage to his eyes.

19 14. On July 12, 2019 Plaintiff submitted a letter to Prison  
20 Law Office, who soon after filed a Parsons v Ryan  
21 medical complaint. This alerted John Doe #1, (unknown) Stickley,  
22 Walter Hensley, and David Shinn of the ongoing medical deficiency.  
23 None responded and provided relief for Plaintiff's pain and  
24 suffering.

25 15. Due to the Defendants named in item 14's failure to  
26 reasonably respond, Plaintiff suffered much additional pain  
27 and damage to his eyes.

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## 1 Supervisory Liability for the Denial of Medical Care

2 Defendant Shinn holds the supervisory position of Director,  
 3 ADCRR. His personal responsibilities include the administrative  
 4 oversight and provision of constitutionally adequate healthcare  
 5 for Arizona's prisoners. Estelle v Gamble, 429 U.S. 97, 97 S.Ct.  
 6 285 (1976); U.S.C.A.8. He does this by personally  
 7 contracting professional services to assist in carrying out  
 8 this responsibility on behalf of the state. Ariz. Rev. Stat.  
 9 31-201,01(D). In spite of the presence of contracted  
 10 professionals, he alone is ultimately responsible to  
 11 ensure their work is constitutionally adequate (Estelle)  
 12 through his own culpable action or inaction in the  
 13 training, supervision, or control of subordinates, his  
 14 acquiescence in the constitutional deprivation of which  
 15 a complaint is made or for conduct that showed a  
 16 reckless or callous indifference to the rights of others  
 17 (citation omitted) City of Canton v Harris, 489 U.S. 378,  
 18 385, 109 S.Ct. 1197 (1989); see also Edgetv v City and  
 19 County of San Francisco, 495 F.3d 645, 660 (9th Cir. 2007).

20 Defendant Shinn personally meets with his subordinates  
 21 and representatives of the healthcare services contractor(s) who  
 22 report deficiencies and areas of concern in ADCRR's  
 23 healthcare system. He then established policies and  
 24 directives to address these deficiencies, and is  
 25 responsible for affirmatively supervising his subordinates  
 26 Q.S. they supervise and train their subordinates to implement  
 27 those policies and directives in a manner that achieves

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1 the desired result of constitutionally adequate healthcare.

2 This prison's current history has been documented and  
3 expressly noted as a pattern and practice by officials to  
4 deny adequate medical care in violation of prisoners'  
5 Eighth Amendment rights and then to obstruct, silence, or  
6 "chill" prisoners' First Amendment right to file grievances  
7 about that constitutionally deficient healthcare through  
8 retaliatory actions.

9 These are not isolated occurrences. They are long-standing  
0 and pervasive, deliberate and conscious choices to inflict  
1 wanton and unnecessary pain.

2 Defendant Shinn has known of and disregarded the excessive  
3 risk to the health of prisoners posed by the presence of the three  
4 above-mentioned violations through more than a decade of  
5 litigation and failures of ADCRR to meet court-ordered  
6 stipulations in Parsons v Ryan, CV-12-00601-PHX-Ros (now  
7 Jen. v Shinn), an ADC prisoner class-action concerning the  
8 provision of medical care in ADCRR prisons. His knowledge  
9 by inference supported by Farmer v Brennan, 511 U.S. 825  
0 (1994) as these very same issues have been repeatedly highlighted  
1 as "long-standing, pervasive, well-documented and expressly  
2 noted" as "so likely to result (continued) in violations of  
3 constitutional rights that defendants can reasonably be said  
4 to the need" if they continue by past administrations and courts.  
5 This satisfies the supervisory liability and deliberate indifference  
6 requirements under Farmer v Brennan and Blyden v Mancusi,  
7 186 F.3d 252, 264 (2d Cir. 1997) (a supervisor may be  
Shinn 486

1 found personally involved in a deprivation of rights in  
 2 several ways... He may be liable because he created a  
 3 policy or custom under which unconstitutional practices  
 4 occurred, or allowed such a policy or custom to continue.

5 He, after learning of the violation through a report or  
 6 appeal may have failed to remedy the wrong.)

7 Additionally, for the supervisory liability standard, Plaintiff  
 8 alleges that Defendant Shinn's own actions of continuing to  
 9 pay healthcare contractor who has never been in constitutional  
 0 compliance since assuming the contract many years ago fulfills  
 1 all three liability stipulations of City of Canton v Harris. His  
 2 culpable action is paying hundreds of millions of dollars  
 3 for deficient healthcare while are fined only tens of  
 4 millions for their deficiencies. This is acquiescence of the  
 5 sort that fulfills both deliberate indifference and supervisory  
 6 liability standards. His inaction is in failing to properly  
 7 train, supervise and control his subordinates to ensure  
 8 they properly implement methods to meet court-ordered  
 9 standards of medical care for Arizona's prisoners.

0 Plaintiff alleges that Defendant Shinn, instead of using  
 1 taxpayer money to institute effective programs of "checks  
 2 and balances" to eliminate the unconstitutional deficiencies  
 3 in ADCRR's healthcare system, Defendant Shinn has made a  
 4 series of deliberate and conscious choices to continue to  
 5 pay the legal fees and fines for the substandard  
 6 healthcare he provides. This establishes an affirmative  
 7 link between his deliberate and conscious choices and

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1 the wanton and unnecessary infliction of pain suffered by  
 2 Plaintiff.

3 Plaintiff further alleges that, in light of the duties assigned  
 4 to Defendant Shinn, more than 10 years of long-standing and  
 5 expressly noted failures in the ADCRR medical care system and  
 6 the grievance system, and widespread failure to control  
 7 retaliatory conduct of subordinates has made the need for  
 8 more and different training and supervision and control obvious  
 9 and the continuation of these inadequacies so likely to result  
 10 in violations of constitutional rights that Defendant Shinn can  
 11 reasonably be said to have been indifferent to the need.

12 City of Canton v. Harris

13 Plaintiff alleges that Defendant Shinn knew of the healthcare  
 14 deficiencies, knew they would be grieved, knew from numerous  
 15 Parsons v. Ryan report they would likely be "unprocessed" in violation of  
 16 DO 802.5.2.1-802.5.2.2.5 which allows only for a designation  
 17 of either "resolved" or "not resolved", in an effort to cut off the  
 18 complaints from reaching upper management and the ADCRR compliance  
 19 monitor, and yet he failed to remedy these wrongs.

20 Plaintiff alleges that Defendant Shinn, in not properly training,  
 21 supervising or controlling subordinates in the proper processing of  
 22 grievances actually allowed Plaintiff's cries for help for medical  
 23 care to purposefully go unanswered for so long he lost his  
 24 sight.

25 Plaintiff alleges these were deliberate and conscious choices  
 26 by the Director and sufficiently states a claim for relief for  
 27 supervisory liability for the denial of Medical Care due deliberate indifference.

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1 Discovery will be necessary to ascertain the extent of this  
 2 Defendant's liability. This is supported by Matzker v Herr,  
 3 748 F.2d 1142, 1147-48 (7<sup>th</sup> Cir, 1984) (jail officials liable for  
 4 holding prisoner for 3 months but refused to provide  
 5 treatment for injured eye); see also Satchell v Dilworth,  
 6 745 F.2d 781, 786 (2<sup>d</sup> Cir 1984) (supervisors can be named  
 7 as parties "at least for purposes of identifying those of  
 8 their subordinates who are personally responsible for  
 9 the departmental actions complained of); Harvey v  
 10 LaValley, 2008 WL 5219027, \*3 (N.D.N.Y., Dec 31, 2008).  
 11 (restating rule permitting inclusion of supervisors as  
 12 named defendants for discovery purposes after Lebal.)

13 Finally, it has been held; "after Lebal and Twombly,  
 14 court assessing sufficiency of complaint should ask: if all  
 15 facts plaintiff alleges in his complaint are accepted as true,  
 16 but all conclusions are rejected, is it still plausible (that is,  
 17 more than speculative) to believe that additional discovery  
 18 will fill in whatever gaps are left in the complaint?"

19 Riley v Vilsack, 665 F.Supp. 2d 994, 2009 U.S. Dist. LEXIS  
 20 98548 (W.D. Wis. 2009). The answer is, yes, it is plausible  
 21 that the defendant has failed in his supervisory duties  
 22 to correct the same deficiencies of the last 10 years  
 23 that plaintiff alleges still exist and led to his loss of  
 24 sight, and yes, additional discovery would fill in the gaps  
 25 left in this complaint.

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Supervisory Liability for the Denial of Medical Care

Defendant Hensley holds the supervisory position of warden for Eymen Complex. His personal responsibilities include the administrative oversight of Eymen Complex operations and the oversight and provision of constitutionally adequate healthcare for Eymen Complex's prisoners, Estelle v. Gamble, 429 U.S. 97, 97 S.Ct. 285 (1976); U.S.C.A. 8.

He does this by personally meeting with his subordinates and representatives of the contracted healthcare provider services who report deficiencies and areas of concern that adversely affect the provision of constitutionally adequate healthcare to Eymen Complex's prisoners. He investigates the accuracy of these reports and provides them directly to the director, ADCRR.

Defendant Hensley as warden, receives the director's orders and formulates policy and directives to his subordinates, including representatives of the healthcare provider services. As warden, in spite of the presence of the contracted professionals, he is liable for ensuring their work at Eymen Complex is constitutionally adequate (Estelle) through his own culpable action or inaction in the training, supervision or control of subordinates, his acquiescence in the constitutional deprivation of which a complaint is made or for conduct that showed a reckless or callous indifference to the rights of others (citation omitted).

City of Canton v. Harris, 489 U.S. 378, 385, 109 S.Ct. 1197 (1989);

See also Edgerly v. City and County of San Francisco, 495 F.3d 645, 660 (9th Cir. 2007).

Defendant Hensley has failed in his responsibilities  
warden ~~429~~

1 to affirmatively supervise his subordinates as they supervise and train  
 2 their subordinates to implement those policies and directives in a  
 3 manner that achieves the desired result of constitutionally adequate  
 4 healthcare.

5 Eymon Complex's current history has been documented and expressly  
 6 noted as a pattern and practice by officials to deny medical care  
 7 in violation of prisoners' Eighth Amendment rights and then to  
 8 obstruct, silence, or "chill" prisoners' First Amendment right to file  
 9 grievances about that constitutionally deficient healthcare through  
 0 retaliatory actions.

1 Plaintiff alleges that these are not isolated occurrences. They are  
 2 long-standing and pervasive, deliberate and conscious choices  
 3 to inflict wanton and unnecessary pain.

4 Plaintiff alleges that Defendant Hensley has known of and  
 5 disregarded the excessive risk to the health of prisoners posed by  
 6 the presence of the three above-mentioned violations through  
 7 more than a decade of litigation and failures of Eymon Complex  
 8 to meet court-ordered stipulations in Parsons v Ryan, CV-12-00601  
 9 PHX-Ros, an ADC prisoner class-action concerning the provision of  
 0 medical care in ADCRR prisons. His knowledge by inference is  
 1 supported by Farmer v Brennan, 511 U.S. 825 (1994) as these  
 2 very same issues have been repeatedly highlighted as "long-  
 3 standing, pervasive, well-documented and expressly noted" as "so  
 4 likely to result in violations of constitutional rights that defendants  
 5 can reasonably be said to be indifferent to the needs" by past  
 6 administrations and courts.

7 This satisfies the supervisory liability and deliberate  
 8 warden  
 9 **4-G**

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1 Indifference requirements under Farmar v Brennan and Blyden v  
 2 Mancusi, 186 F.3d 252, 264 (2d Cir. 1998) (a supervisor may be  
 3 found personally involved in a deprivation of rights in several ways..  
 4 He may be liable because he created a policy or custom under  
 5 which unconstitutional practices occurred, or allowed such a  
 6 policy or custom to continue.. He, after learning of the violation  
 7 through a report or appeal may have failed to remedy the  
 8 wrong..) Plaintiff alleges that Defendant Hensley knew of  
 9 the healthcare deficiencies, knew they would be grieved, and  
 10 knew from numerous Parsons v Ryan reports they would likely  
 11 be "unprocessed" in violation of DO 802.5.2.1-802.5.2.2.5 which  
 12 allows only for a designation of either "resolved" or "not resolved",  
 13 in an effort to cut off the complaints from reaching upper  
 14 management and the ADCRR compliance monitor, and yet he  
 15 failed to remedy these wrongs.

16 Plaintiff alleges that Defendant Hensley, in not properly training  
 17 supervising, or controlling subordinates in the proper processing of  
 18 grievances, actually allowed Plaintiff cries for help for medical care  
 19 to purposefully go unanswered in an effort to avoid oversight of  
 20 the ADCRR compliance monitor and the courts. The result is  
 21 that Plaintiff's cries for help went unanswered for so long  
 22 he lost his sight.

23 Plaintiff alleges this was a deliberate and conscious choice by  
 24 the warden and sufficiently states a claim for supervisory  
 25 liability for the denial of medical care due to deliberate  
 26 indifference.

27 Discovery will be necessary to ascertain the extent of this  
 28 warden (4-H)

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1 Defendant's liability. This is supported by Matzker v. Herr, 748 F.2d  
 2 1142, 1147-48 (7<sup>th</sup> Cir. 1984) (jail officials liable for holding prisoner for  
 3 3 months but refused to provide treatment for injured eye); see also  
 4 Satchell v. Dilworth, 745 F.2d 781, 786 (2d Cir. 1984) (supervisors can be  
 5 named as parties "at least for purposes of identifying those of their  
 6 subordinates who are personally responsible for the departmental  
 7 actions complained of); Harvey v. LaValley, 2009 WL 5219027, \*3  
 8 (N.D.N.Y., Dec. 31, 2009) (restating rule permitting inclusion of  
 9 supervisors as named defendants for discovery purposes after  
 10 Iqbal).

1 Finally, it has been held; "After Iqbal and Twombly, court  
 2 assessing sufficiency of complaint should ask: if all facts  
 3 plaintiff alleges in his complaint are accepted as true, but all  
 4 conclusions are rejected, is it still plausible (that is, more than  
 5 speculative) to believe that additional discovery will fill in  
 6 whatever gaps are left in the complaint? Riley v. Vitsack,  
 7 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D.Wis.  
 8 2009).

9 The answer is, yes, it is plausible that this defendant  
 0 continued the same conduct of the last 10 years or, after  
 1 learning of these deficiencies, failed to remedy the wrong,  
 2 that the deficiencies still exist and cost Plaintiff his sight,  
 3 and it is plausible that additional discovery will fill  
 4 in the gaps in the complaint.

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## 1 Supervisory Liability for the Denial of Medical Care

2 Defendant Stickley holds the supervisory position of deputy  
 3 warden for Special Management Unit 1. His personal responsibilities  
 4 include the direct oversight of provision of constitutionally adequate  
 5 healthcare for Special Management Unit. Estelle v. Gamble, 429 U.S. 97, 97  
 6 S.Ct. 285 (1976); U.S.C.A. 8.

7 He does this by personally meeting with the facility health administrator  
 8 (FHA), director of nursing(DON), and Assistant Director of Nursing (ADON)  
 9 who report deficiencies and areas of concern that adversely  
 10 affect the provision of constitutionally adequate healthcare to  
 11 SMU 2's prisoners. He investigates the accuracy of these  
 12 reports and provides them to his supervisors.

13 Defendant Stickley as deputy warden receives the  
 14 policies and directives from his superiors and assigns key personnel  
 15 to handle the day-to-day duties entailed in the successful  
 16 implementation of those decisions.

17 In spite of the presence of contracted healthcare professionals, he  
 18 is liable for ensuring their work at SMU 1 is constitutionally  
 19 adequate (Estelle) through his own culpable action or inaction in the  
 20 training, supervision, or control of subordinates, his acquiescence  
 21 in the constitutional deprivation of which a complaint is made  
 22 or for conduct that showed a reckless or callous indifference  
 23 to the rights of others (citation omitted). City of Canton v.  
 24 Harris, 489 U.S. 378, 385 109 S.Ct. 1197 (1989); see also  
 25 Edgerly v. City and County of San Francisco, 495 F.3d  
 26 675, 680 (9th Cir. 2007).

27 Defendant Stickley has failed in his responsibilities

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1 to affirmatively supervise his subordinates as they supervise  
 2 and train their subordinates to implement policies and directives  
 3 in a manner that achieves the desired result of constitutionally  
 4 adequate healthcare.

5 This prison's current history has been documented and  
 6 expressly noted as a pattern and practice by officials to  
 7 deny medical care in violation of prisoners' Eighth  
 8 Amendment rights and then to obstruct, silence, or "chill"  
 9 prisoners' First Amendment right to file grievances about that  
 10 constitutionally deficient healthcare through retaliatory actions

11 Plaintiff alleges that these are not isolated occurrences.  
 12 They are long-standing and pervasive, deliberate and conscious  
 13 choices to inflict wanton and unnecessary pain.

14 Plaintiff alleges that Defendant Stickley has known of  
 15 and disregarded the excessive risk to the health of prisoners  
 16 posed by the 3 above-mentioned violations through more than a  
 17 decade of litigation and failures of this prison to meet court-  
 18 ordered stipulations in Parsons v. Ryan, CV-12-00601-PHX-RGS, an  
 19 ADC prisoner class-action concerning the provision of medical care  
 20 in ADCRR prisons. His knowledge by inference is supported by  
 21 Farmer v. Brennan, 511 U.S. 825 (1994) as these very same issues  
 22 have been repeatedly highlighted as "long-standing, pervasive,  
 23 well-documented and expressly noted" as "so likely to result  
 24 in violations of constitutional rights" that the defendant  
 25 "can reasonably be said to be indifferent to the need" for  
 26 more or different training. Less than 65 percent of medical  
 27 requests and grievances are processed according to policy.

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1 and less than 5 percent of grievances are processed. Most  
 2 are designated as "unprocessed" in violation of DO 8025.2.I-8025.  
 3 2.5 which only allows for a designation of either "resolved" or  
 4 "not resolved". In an effort to cut off the complaints from reaching  
 5 upper management and the ADCRR compliance monitor, and yet he  
 6 failed to remedy the wrongs. This satisfies the supervisory and  
 7 deliberate indifference requirements under Farmer v Brennan and  
 8 Blyden v Mancusi, 186 F.3d 252, 264 (2d Cir. 1999)(a  
 9 supervisor may be found personally involved in a deprivation  
 10 of rights in several ways... He may be liable because he  
 11 created a policy or custom under which unconstitutional  
 12 practices occurred, or allowed such a policy or custom to  
 13 continue... He, after learning of the violation through a  
 14 report or appeal may have failed to remedy the wrong...)

15 Plaintiff alleges that the deputy warden knew of the  
 16 healthcare deficiencies, knew they would be grieved, and  
 17 would likely be "unprocessed" from numerous Parsons v Ryan  
 18 reports, and yet the defendant allowed this custom to  
 19 continue and failed to remedy the wrong.

20 Plaintiff alleges that the defendant made a deliberate  
 21 and conscious choice to not properly supervise or control  
 22 subordinates in the proper processing of medical grievances.  
 23 To avoid oversight of his supervisors, the ADCRR compliance  
 24 monitor, and the courts.

25 Plaintiff alleges that the defendant's deliberate and  
 26 conscious choices actually allowed Plaintiff cries for  
 27 help for medical care to purposefully go unanswered.

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1 for so long that it resulted in the loss of his sight,

2 Plaintiff alleges these deliberate and conscious choices  
 3 by the deputy warden sufficiently states a claim for  
 4 supervisory liability for the denial of medical care due  
 5 to deliberate indifference.

6 Discovery will be necessary to ascertain the extent of this  
 7 defendant's liability. This is supported by Matzker v Hert,  
 8 748 F.2d 1142, 1147-48 (7th Cir. 1984) (jail officials liable for  
 9 holding prisoner for 3 months but refused to provide treatment  
 10 for injured eye.); see also Satchell v Dilworth, 745 F.2d 781,  
 11 786 (2d Cir. 1984) (supervisors can be named as parties "at least  
 12 for purposes of identifying those of their subordinates who are  
 13 personally responsible for the departmental actions complained of);  
 14 Harvey v LaValley, 2009 WL 5219027, \*3 (N.D.N.Y., Dec. 31, 2009)  
 15 (restating rule permitting inclusion of supervisors as named  
 16 defendants for discovery purposes after labeled).

17 Finally, it has been held; "After labeled and Troubly, court  
 18 assessing sufficiency of complaint should ask: if all facts  
 19 Plaintiff alleges in his complaint are accepted as true, but all  
 20 conclusions are rejected, is it still plausible (that is, more than  
 21 speculative) to believe that additional discovery will fill in  
 22 whatever gaps are left in the complaint?" Riley v Vilsack,  
 3 665 F.Supp.2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D.Wis. 2009).

4 The answer is yes, it is plausible that the defendant failed  
 5 in his supervisory duties to correct the same unconstitutional  
 6 conditions of the last 10 years that Plaintiff alleges still exist and  
 7 cost him his sight, and it is plausible that additional  
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1 discovery will fill in whatever gaps are left in the  
2 complaint.

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## 1 Supervisory Liability for the Denial of Medical Care

2 Defendant John Doe #1 holds the supervisory position of  
3 Assistant Deputy Warden of Special Management Unit 1. His responsibilities  
4 include administrative oversight of provision of constitutionally  
5 adequate medical care to prisoners under his care and for  
6 the training, supervision, and control of subordinates to ensure  
7 they are training their subordinates and supervising them  
8 to ensure they are eliminating known deficiencies in  
9 medical provision. The ADW meets with subordinates to  
10 implement strategies to eliminate those deficiencies (DO 100)  
11 for the provision of constitutionally adequate healthcare for  
12 prisoners. Estelle v. Gamble, 429 U.S. 97, 97 S. Ct. 285 (1976);  
13 U.S. CA. B.

14 In spite of the presence of contracted healthcare professionals  
15 the ADW is liable for ensuring that their work is constitutionally  
16 adequate (Estelle) through his own culpable action or inaction.  
17 In the training, supervision, or control of subordinates, his  
18 acquiescence in the constitutional deprivation of which a complaint  
19 is made, or for conduct that showed a reckless or callous  
20 indifference to the rights of others (citation omitted). City of  
21 Canton v. Harris, 489 U.S. 378, 389 109 S. Ct. 1197 (1989); see  
2 also Edgely v. City and County of San Francisco, 495 F.3d  
3 645, 660 (9th Cir. 2007).

4 Defendant Doe #1 failed in his responsibilities to  
5 affirmatively supervise his subordinates as they supervised  
6 and trained their subordinates to ensure provision of  
7 constitutionally adequate medical care. As ADW, he  
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10 ADV 10-0

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1 I was not aware and should have been aware, or allowed  
 2 a custom that medical and grievance staff were not processing  
 3 HNR's, medical complaints, and Emergency Grievances (medical)  
 4 as required by DO 802; DO 1100, and that staff were not trained  
 5 in such. Instead, these grievances were "unprocessed" in  
 6 violation of DO 802.5.2.1-802.5.2.25, which only allows for  
 7 a designation of either "resolved" or "unresolved". This  
 8 "unprocessing" is done in an effort to cut off the complaints  
 9 from reaching upper management and the ADCRR compliance  
 10 monitor.

11 This prison's current history has been documented and  
 12 expressly noted as a pattern and practice by officials to deny  
 13 medical care in violation of prisoners' Eighth Amendment rights  
 14 and then to obstruct, silence or "chill" prisoners' First Amendment  
 15 rights to file grievances about that constitutionally deficient  
 16 healthcare through retaliatory actions.

17 Plaintiff alleges that these are not isolated occurrences. They  
 18 are long-standing and pervasive, deliberate and conscious  
 19 choices to inflict wanton and unnecessary pain.

20 Plaintiff alleges that the Defendant has known of and disregarded  
 21 the excessive risk to the health of prisoners posed by the 3 above-  
 22 mentioned violations through more than a decade of litigation  
 23 and failures of this prison to meet court-ordered stipulations

24 in Parsons v Ryan, CV-12-00601-PHX-RS, an ADC prisoner class-  
 25 action concerning the provision of medical care in ADCRR  
 26 prisons. His knowledge by inference is supported by Farmer v  
 27 Brennan, 511 U.S. 825 (1994) as these very same issues  
 AJW 4-p

1 have been repeatedly highlighted as "long-standing, pervasive,  
 2 well-documented and expressly noted" as "so likely to result in  
 3 violations of constitutional rights that defendants can reasonably  
 4 be said to be indifferent to the needs" by past administrations and  
 5 Courts.

6 This satisfies the supervisory liability and deliberate indifference  
 7 requirements under Farmer v Brennan and Blyden v Mancusi,  
 8 186 F.3d 252, 264 (2d Cir 1999) (a supervisor may be found  
 9 personally involved in a deprivation of rights in several ways...  
 10 He may be liable because he created a policy or custom under  
 11 which unconstitutional practices occurred, or allowed such a  
 12 policy or custom to continue... He, after learning of the violation  
 13 through a report or appeal may have failed to remedy the  
 14 wrong...)

15 Plaintiff alleges that this Defendant knew of the healthcare  
 16 deficiencies, knew they would be grievous, and knew from  
 17 numerous Parsons v Ryan reports they would likely be "unprocessed"  
 18 and allowed the custom to continue.

19 Plaintiff alleges that this Defendant, in not properly training,  
 20 supervising, or controlling subordinates in the proper  
 21 processing of grievances, actually allowed and acquiesced to  
 22 Plaintiff's cries for help obtaining medical care to purposefully  
 23 go unanswered in an effort to avoid oversight of the ADCRR  
 24 compliance Monitor and the courts. The result is that Plaintiff's  
 25 cries for help went unanswered for so long that he lost  
 26 his sight.

27 Plaintiff alleges this was a deliberate and conscious  
 28 *ADM* *Sp-Q*

CV-22-00042-PHX-GMS (MTM)

1 choice by the Defendant and sufficiently states a claim for  
 2 Supervisory liability for the denial of medical care due to  
 3 deliberate indifference.

4 Discovery will be necessary to ascertain the extent of this defendants  
 5 liability. This is supported by Hatzker v Herr, 748 F.2d 1142, 1147-48  
 6 (7<sup>th</sup> Cir. 1984) (jail officials liable for holding prisoner for 3 months but  
 7 refused to provide treatment for injured eye); see also Satchell v  
 8 DiNworth, 745 F.2d 781, 786 (2d Cir 1984) (supervisors can be named  
 9 as parties "at least for purposes of identifying those of their  
 10 subordinates who are personally responsible for the departmental  
 11 actions complained of); Harvey v LaValley, 2009 WL 5219027, \*3  
 12 (N.D. N.Y., Dec. 31, 2009) (restating rule permitting inclusion of  
 13 supervisors as named defendants for discovery purposes after  
 14 Iqbal.)

15 Finally, it has been held; "After Iqbal and Twombly, court  
 16 assessing sufficiency of complaint should ask: if all facts  
 17 plaintiff alleges in his complaint are accepted as true, but  
 18 all conclusions are rejected, is it still plausible (that is,  
 19 more than speculative) to believe that additional discovery  
 20 will fill in whatever gaps are left in the complaint?"

21 Riley v Vilsack, 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS  
 22 98548 (W.D. Wis. 2009).

23 The answer is yes, it is plausible that the defendant has failed in his supervisory duties to correct  
 24 the same deficiencies that have lasted at least 10 years  
 25 that plaintiff alleges still exist and led to his loss  
 26 of sight, and it is plausible that discovery will fill in  
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CV-22-00042-PHX-GMS (MTM)

1 whatever gaps are left in the complaint.

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CV-22-00042-PHX-GMS (MTM)

1 Defendant Jane Doe<sup>1,2</sup> (FHA Doe) holds the supervisory position of Facility  
 2 Health Administrator, whose responsibilities include administrative oversight of  
 3 prisoner healthcare which shall include diagnosis, care and treatment, preventative  
 4 healthcare and education in the areas of physical, mental, dental, environmental  
 5 health, the training and supervision of subordinates in the remedying of  
 6 deficiencies of the above, and overall coordination with institutional  
 7 management to ensure minimal training for recognition of emergency and  
 8 urgent medical issues are being trained among security personnel.  
 9 The Facility Health Administrator is also responsible for meeting with and  
 10 submitting reports of occurrences of medical deficiencies to upper management  
 11 to include the Deputy Warden and ADCRR compliance monitor. DO 100.1.1.1-  
 12 1.1.2; 4.0.

13 Defendant Doe was grossly deficient of responsibilities because she was  
 4 not aware and should have been aware that medical staff were not  
 5 processing HNR's, medical complaints, and Emergency (Medical) Grievances as  
 6 required by DO 802; DO 1100.

7 In this case Plaintiff developed severe eye problems that he  
 8 submitted (over a period) 12 HNR's and 2 Emergency Grievances requesting  
 9 medical care and 14 medical complaints and grievances in an effort to  
 10 receive proper care. The responses to the HNR's were not respond to in a  
 11 timely manner, forcing Plaintiff to resort to the Medical Grievance  
 12 process (DI 287, 802.02, 802.05). These grievances were mishandled,  
 13 unprocessed" by the FHA's subordinates, even though they were addressed  
 14 to the FHA per policy (DO 802.05), and even though (DO 802.5.2.1-802.5.2.2,  
 15) only allows for a designation of either "resolved" or "not resolved."  
 16 This was done in an effort to cut off the (multiple) complaints  
 17 from reaching upper management and the ADCRR compliance monitor.

FHA  
407

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1        This deliberate indifference resulted in the Plaintiff's  
 2 loss of one eye (blindness) and irreversible damage to the other  
 3 (partial blindness).

4        This prison's current history is a pattern and practice  
 5 by officials to deny necessary medical care in violation of  
 6 prisoners' Eighth Amendment rights and then to obstruct, silence, or  
 7 "chill" prisoners' First Amendment right to file grievances about  
 8 that constitutionally deficient healthcare.

9        Defendant FIA Doe does have supervisory liability for failure  
 10 to adequately train and supervise subordinates under City of Canton  
 11 v Harris, 489 U.S. 378, 385, 109 S.Ct. 1197 (1989); also Edgerly v  
 12 City and County of San Francisco, 495 F.3d 645, 660 (9th Cir.  
 13 2007) holding that supervisors can be held liable for (1) their own  
 14 culpable action or inaction in the training, supervision, or control  
 15 of subordinates; (2) their acquiescence in the constitutional deprivation  
 16 of which a complaint is made; or (3) for conduct that showed  
 17 a reckless or callous indifference to the rights of others (citation  
 18 omitted).

19        As soon as Defendant FIA Doe's subordinates signed their  
 20 names to the multiple "unprocessing" of medical grievances that  
 21 were, by policy, to be responded to by the FIA (DO 802.05)  
 22 they implicated FIA Doe #2 in #1 and #2 above, the failure to  
 23 train and supervise and the acquiescence in the  
 24 constitutional deprivations of which a  
 25 complaint is made.

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1. Discovery will be necessary to ascertain the extent of Cv-22-00042-PHX-GMS (MTM)  
 2. this Defendant's liability. This is supported by Matzker v  
 3. Herr, 748 F.2d 1142, 1147-48 (7<sup>th</sup> Cir 1984) (jail officials liable  
 4. for holding prisoner for 3 months but refused to provide treatment  
 5. for injured eye); see also Satchell v Dilworth, 745 F.2d 781,  
 6. 786 (2d Cir 1984) (supervisors can be named as parties "at  
 7. least for purposes of identifying those of their subordinates  
 8. who are personally responsible for the departmental actions  
 9. complained of); Harvey v LaValley, 2009 WL 5219027, \*3  
 10. (N.D.N.Y., Dec. 31, 2009) (restating rule permitting inclusion  
 11. of supervisors as named defendants for discovery  
 12. purposes after Iqbal).

13. Finally, it has been held; "after Iqbal and Twombly, court  
 14. assessing sufficiency of complaint should ask: if all facts plaintiff  
 15. alleges in his complaint are accepted as true, but all conclusions  
 16. are rejected, is it still plausible (that is, more than speculative) to  
 17. believe that additional discovery will fill in whatever gaps are left in  
 18. the complaint? Riley v Vilsack, 665 F.Supp.2d 994, 2009 U.S. Dist.  
 19. LEXIS 98548 (W.D.Wis 2009).

20. The answer is yes, it is plausible that after more than 10  
 21. years of failures to meet constitutional standards, the defendant  
 22. still continues to fail to correct those deficiencies and that  
 23. those failures cost plaintiff his sight; and it is plausible that  
 24. discovery will fill in the gaps left in the complaint.

1 Supervisory Liability for the Denial of Medical Care

2 Defendant Doe #3 holds the supervisory position  
 3 of Director of Nursing (DON), whose responsibilities  
 4 include administrative oversight of the nursing department  
 5 and training and supervision of their daily activities.

6 Of the areas the DON trains and supervises, the  
 7 most important are the proper triage and processing of  
 8 Health Needs Requests, investigation of medical grievances, and  
 9 general coordination of all specialist appointments.

10 Finally, the DON is responsible for general oversight  
 11 of correctional procedures of medical deficiencies, once  
 12 reported, to ensure they do not reoccur. DO 100, U.S.C.A. 8  
 13 This means the DON is responsible to ensure  
 14 provision of constitutionally adequate healthcare.

15 Estelle v. Gamble, 429 U.S. 97, 97 S.Ct 285 (1976); U.S.C.A. 8

16 Defendant Doe #3 failed to affirmatively  
 17 supervise subordinates as they trained and supervised  
 18 their subordinates to properly triage and screen HNR's,  
 19 respond to medical complaints, and schedule  
 20 specialist appointments, and provide uninterrupted supply  
 21 of Plaintiff's medications.

22 Because of this failure Plaintiff's medical requests  
 23 were not triaged properly, his grievances "unprocessed", and  
 24 his medications allowed to repeatedly lapse.

25 This, Plaintiff alleges, was a deliberate and  
 26 conscious choice not to properly supervise or control  
 27 the Director of Nursing's subordinates

(b)-W

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1 in the proper triage of HNR's, proper processing of medical  
 2 complaints, and the proper scheduling of off-site appointments, to  
 3 avoid oversight of supervisors, the ADCRR compliance monitor, and  
 4 the courts.

5 This prison's current history has been documented and  
 6 expressly noted as a pattern and practice by officials to  
 7 deny medical care in violation of prisoners' Eighth Amendment  
 8 rights, and then to obstruct, silence or "chill" prisoners' First Amendment  
 9 right to file grievances about that constitutionally deficient healthcare  
 10 through retaliatory actions and by "unprocessing" grievances in  
 11 violation of DO 802.5.2.1-802.5.2.2.5, which only allows for a  
 12 designation of either "resolved" or "unresolved," done in efforts to cut  
 13 off the complaints from reaching upper management and the  
 14 ADCRR compliance monitor.

15 Plaintiff alleges that these are not isolated occurrences.  
 16 They are long-standing and pervasive, deliberate and conscious  
 17 choices to inflict wanton and unnecessary pain.

18 Plaintiff alleges that the Defendant has known of and  
 19 disregarded the excessive risk to the health of prisoners posed by  
 20 the 3 above-mentioned violations through more than a decade of  
 21 litigation and failures of this to meet court-ordered stipulations in  
 22 Parsons v. Ryan, CV-12-00601-PHX-Ros, an ADC prisoner class-action  
 23 concerning the provision of medical care in ADCAR prisons.  
 24 Defendant's knowledge by inference is supported by Farmer v.  
 25 Brennan, 511 U.S. 825 (1994) as these very same issues have  
 26 repeatedly been highlighted as "long-standing, pervasive, well-  
 27 documented and expressly noted" as "so likely to result in  
 DON **Hox**

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1 violations of constitutional rights that defendants can reasonably  
 2 be said to be indifferent to the need" for more or different  
 3 training, supervision, and control of subordinates by past  
 4 administrations and courts.

5 This satisfies the supervisory liability and deliberate  
 6 indifference requirements under Farmer v Brennan and  
 7 Blyden v Maneuski, 186 F.3d 252, 264 (2d Cir 1999) (a supervisor  
 8 may be found personally involved in a deprivation of rights in  
 9 several ways... He may be liable because he created a policy or  
 10 custom under which unconstitutional practices occurred, or allowed  
 11 such a policy or custom to continue... He, after learning of the  
 12 violation through a report or appeal may have failed to  
 13 remedy the wrong...)

14 Plaintiff alleges this Defendant knew of the healthcare  
 15 deficiencies, knew they would be grievous, and knew from  
 16 numerous Parsons v Ryan reports they would likely be "unprocessed"  
 17 and allowed the custom to continue.

18 Plaintiff alleges that this Defendant, in not properly training,  
 19 supervising, or controlling subordinates in the proper processing  
 20 of medical complaints, actually allowed and acquiesced to  
 21 Plaintiff cries for help obtaining medical care to purposefully  
 22 go unanswered in an effort to avoid oversight of the ADCRR  
 23 compliance monitor and the courts. The result is that Plaintiff's  
 24 cries for help went unanswered for so long he lost his sight.

25 Plaintiff alleges these were a series of deliberate and conscious  
 26 choices by the Defendant and sufficiently states a claim  
 27 for supervisory liability for the denial of medical care due  
 28 to

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1 to deliberate indifference.

2 Discovery will be necessary to ascertain the extent of  
 3 this defendant's liability. This is supported by Matzker v.  
 4 Herr, 748 F.2d 1142, 1147-48 (7th Cir. 1984) (jail officials liable  
 5 for holding prisoner for 3 months but refused to provide  
 6 treatment for injured eye); see also Satchell v. Dilworth,  
 7 745 F.2d 781, 786 (2d Cir. 1984) (supervisors can be named  
 8 as parties "at least for purposes of identifying those of  
 9 their subordinates who are personally responsible for the  
 10 departmental actions complained of); Harvey v. LaValley,  
 11 2009 WL 5219027, \*3 (N.D. N.Y., Dec. 31, 2009) (restating  
 12 rule permitting inclusion of supervisors as named  
 13 defendants for discovery purposes after 1961.)

14 Finally, it has been held; "After 1961 and Twombly, court  
 15 assessing sufficiency of complaint should ask: if all facts  
 16 plaintiff alleges in his complaint are accepted as true, but all  
 17 conclusions are rejected, is it still plausible (that is, more  
 18 than speculative) to believe that additional discovery  
 19 will fill in whatever gaps are left in the complaint?"  
 20 Riley v. Vilack, 665 F. Supp. 2d 994, 2009 U.S. Dist.  
 21 LEXIS 98548 (W.D. Wis. 2009).

22 The answer is yes, it is plausible that the defendant  
 23 has failed in his supervisory duties to correct the  
 24 same deficiencies of the last 10 years that plaintiff  
 25 alleges still exist and led to his loss of sight, and  
 discovery will fill in the gaps in the complaint.

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1 Defendant Doe #4 holds the position of Assistant Director  
2 of Nursing, whose responsibilities include administrative  
3 oversight of the nursing department, training, supervision,  
4 and control of subordinates, including proper triage and  
5 screening of Health Needs Requests (HNR's) in a timely and  
6 appropriate manner, scheduling and coordination of specialist  
7 care, and reporting non-compliance issues to the DON and  
8 FHT.

9 Defendant Doe #4 was grossly deficient of her  
10 responsibilities because either she was not aware and  
11 should have been or was aware and was complicit  
12 that her subordinates were not appropriately triaging,  
13 processing, and scheduling appointments for Plaintiff's  
14 HNR's, medical complaints and grievances, and Emergency  
15 Grievances as required by DO 802, DO 1100, DO 100, and  
16 U.S.C.A. B.

17 In this case Plaintiff was denied eye medication,  
18 developed a severe eye infection, suffered an exploded  
19 optic nerve that rendered him blind, all while his  
20 HNR's, medical complaints and grievances were  
21 unanswered for months on end. His medical  
22 grievances were "unprocessed" in violation of DO 802.5.  
23 2.1 - 802.5, 2, 2, 5 which allows only for a designation  
24 of either "resolved" or "unresolved", in an effort  
25 to cut off the complaints about the lack of medical  
care from reaching upper management and the ADCRR  
Compliance Monitor. This deliberate indifference caused Plaintiff's  
**(4)-AA**

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1 blindness in one eye and harmed his remaining eye  
 2 (partial blindness).

3 This prison's current history is a pattern ... and  
 4 practice by officials to deny necessary and adequate  
 5 medical care for serious medical needs in violation of  
 6 prisoners' Eighth Amendment rights and then to obstruct,  
 7 silence, or "chill" prisoners' First Amendment right to file  
 8 grievances about that constitutionally deficient healthcare  
 9 which has been most recently evidenced by ADCRR's  
 10 failure to meet court-ordered stipulations and the  
 11 resulting resumption of Parsons v Ryan litigation.

12 Defendant Doe #4 does have supervisory liability for  
 13 failure to adequately train and supervise subordinates  
 14 under City of Canton v Harris, 489 U.S. 378, 385, 109 S. Ct  
 15 1197 (1989); also Edgerly v City and County of San  
 16 Francisco, 495 F.3d 645, 660 (9th Cir 2007) that supervisors  
 17 can be held liable for (1) their own culpable action or  
 18 inaction in the training, supervision, or control of  
 19 subordinates; (2) their acquiescence in the constitutional  
 20 deprivation of which a complaint is made; or (3) for  
 21 conduct that showed a reckless or callous indifference to  
 22 the rights of others (citation omitted).

23 Discovery will be necessary to ascertain the extent of  
 24 Defendant Doe's actions or inactions in the training,  
 25 supervision, or control of subordinates on the issue  
 26 of why so many HNR's and grievances requesting  
 27 medical care went unanswered. This is supported by  
 (4-88)

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1 Matzker v Herr, 748 F.2d 1142, 1177-48 (7th Cir 1984) (ail  
 2 officials liable for holding prisoner for 3 months but refused  
 3 to provide treatment for injured eye); see also Satchell v  
 4 Dilworth, 745 F.2d 781, 786 (2d Cir 1984) (supervisors can be  
 5 named as parties "at least for purposes of identifying those  
 6 of their subordinates who are personally responsible for  
 7 the departmental actions complained of); Harvey v LaValley,  
 8 2009 WL 5219027, \*3 (N.D. N.Y., Dec. 3, 2009) (restating rule  
 9 permitting inclusion of supervisors as named defendants for  
 10 discovery purposes after Iqbal).

11 Discovery will reveal that these are not isolated  
 12 occurrences, that this prison's current history is documented  
 13 and expressly noted as a pattern and practice by officials  
 14 to deny medical care in violation of prisoners' Eighth  
 15 Amendment rights, and then to obstruct, silence, or "chill"  
 16 prisoners' First Amendment right to file grievances about  
 17 that constitutionally deficient healthcare through retaliatory  
 18 actions and the aforementioned "unprocessing" of valid complaints

19 Finally, it has been held; "After Iqbal and Twombly court  
 20 assessing sufficiency of complaint should ask: if all facts  
 21 Plaintiff alleges are accepted as true, but all conclusions are  
 22 rejected, is it still plausible (that is, more than speculative) to  
 23 believe that additional discovery will fill in whatever gaps  
 24 are left in the complaint?" Riley v Vilsack, 665 F. Supp. 2d  
 25 994, 2009 U.S. Dist. LEXIS 98548 (W.D. Wis. 2009)

26 The answer is yes, in this case, discovery will fill in  
 27 whatever gaps are left in the complaint.

(47-CC)

Ex. 2200042.PHX.GMS (MTM)

1 Defendant Gay holds the position of provider of  
 2 medical care for prisoners at SMU1. She is responsible  
 3 for the diagnosis and treatment of medical needs.

4 She is also responsible for reordering medications and  
 5 ensuring prisoners are provided with constitutionally  
 6 adequate medical care. DO 100, DO 1100, U.S.C.G., Estelle v.  
Gamble, 429 U.S. 97, 97 S. Ct. 285 (1976)

7 Defendant Gay failed in her responsibilities to  
 8 Plaintiff by failing to ensure his medication was not  
 9 interrupted. Due to this failure Plaintiff's eye condition  
 10 worsened and the resulting infection was allowed  
 11 to run rampant as his requests for medical attention  
 12 was ignored by Defendant Gay. Defendant Gay failed  
 13 to see Plaintiff within policy guidelines, taking 6 months  
 14 to see him when guidelines call for 2 weeks. Due to  
 15 this constitutional violation Plaintiff is now blind.

16 This, the plaintiff alleges, was a deliberate and conscious  
 17 choice to not see every prisoner for every HNR, but  
 18 instead to wait until they had submitted multiple  
 19 HNR's to schedule the first visit. Plaintiff alleges  
 20 this was done as a cost-cutting measure, and that  
 21 discovery will bear out an unofficial custom of the  
 22 aforementioned HNR scheduling practices.

23 This prison's current history has been documented and  
 24 expressly noted as a pattern and practice by officials  
 25 to deny medical care in violation of prisoners'  
 26 Eighth Amendment rights. It has also been noted to  
 27 (HJD)

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1 "adjust" HNR reporting numbers to avoid oversight by the  
2 ADCRR compliance monitor and the courts.

3 Plaintiff alleges that these are not isolated occurrences  
4 They are long-standing and pervasive, deliberate and  
5 conscious choices to limit costs. The result of these choices  
6 are the infliction of wanton and unnecessary pain.

7 Plaintiff alleges that Defendant Gay has known of and  
8 disregarded the excessive risk to prisoners posed by these  
9 practices, and discovery will bear this out.

10 Defendant's knowledge is direct, a result of being near  
11 the center of nearly 10 years' litigation highlighting these  
12 very risks, and a result of being a defendant herself in  
13 other litigatory actions for these very same practices.

14 Defendant's knowledge by inference is supported by  
15 Farmer v Brennan, 511 U.S. 825 (1994) as "long-standing,  
16 pervasive and well-documented violations of constitutional  
17 rights that are so obvious that defendants can  
18 reasonably be said to be" deliberately indifferent to the  
19 needs of the prisoner population.

20 Defendant Gay was deliberately indifferent to Plaintiff's  
21 cries for help when she allowed 6 months to pass  
22 without seeing him for his eye infection, despite multiple  
23 requests submitted by the Plaintiff, and when she repeatedly  
24 allowed the provision of his eye medication to lapse, resulting  
25 in the eye infection. In doing so Defendant Gay violated  
26 Plaintiff's Eighth Amendment rights by denying him medical care  
27 and subjected him to cruel and unusual punishment.

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1 Defendant Merriman holds the position of provider of  
 2 medical care for prisoners at SMU 1. She is responsible for  
 3 the diagnosis and treatment of medical needs, reordering medications  
 4 and ensuring prisoners are provided with constitutionally adequate  
 5 medical care. D.D. 100, D.D. 100, U.S.C.A. 8, Estelle v Gamble, 429  
 6 U.S. 97, 97 S.Ct 285 (1976)

7 Defendant Merriman failed in her responsibilities to  
 8 Plaintiff by allowing his eye medication to lapse and then  
 9 being negligent in ordering his refills so there would be  
 10 no lapse. This caused an infection in his eye that  
 11 resulted in his blindness.

12 Defendant Merriman then failed to see Plaintiff in  
 13 response to his HNR's within the timeframes allowable  
 14 by policy, thus needlessly extending Plaintiff's pain and  
 15 suffering.

16 Plaintiff alleges these were deliberate and conscious  
 17 choices made in an effort to cut costs, and that discovery  
 18 will bear this out.

19 This prison's current history has been documented and  
 20 expressly noted as a pattern and practice by officials  
 21 to deny medical care in violation of prisoners' Eighth  
 22 Amendment rights. It has also been noted to "adjust"  
 23 medical deficiency numbers to avoid oversight by the  
 24 ADCRR compliance monitor and the courts.

25 Plaintiff alleges that these are not isolated  
 26 occurrences. They are long-standing and pervasive,  
 27 deliberate and conscious choices to limit costs. The  
**(H)FF**

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1 result of these choices, for the Plaintiff was the infliction  
2 of wanton and unnecessary pain.

3 Plaintiff alleges that Defendant Merriman has known of and  
4 disregarded the excessive risk to prisoners posed by these  
5 practices and discovery will also bear this out.

6 Defendant's knowledge is a direct result of being at  
7 the center of numerous controversies and litigation  
8 actions for these very same practices.

9 Defendant's knowledge can also be said to be by  
10 inference, supported by Farmer v. Brennan, 511 U.S. 825 (1994) as  
11 long-standing, pervasive and well-documented violations of  
12 constitutional rights that are so obvious that defendants can  
13 reasonably be said to be deliberately indifferent to the needs  
14 of the prisoner population.

15 Defendant Merriman was deliberately indifferent to  
16 Plaintiff's cries for help when she did not see him  
17 until 6 months after his request, and by allowing his  
18 medications to repeatedly lapse without refill.

19 In doing so, Defendant Merriman violated Plaintiff's  
20 Eighth Amendment rights by denying him medical  
21 care and subjecting him to cruel and unusual  
22 punishment.

HGG

CV-22-00042-PHX-GMS (MTM)

1 Officer John Doe #5 is a corrections officer at  
2 SMU 1 whose responsibilities on or about April  
3 29, 2019, was solely escorting prisoners to medical  
4 unit.

5 Defendant Doe #5, instead of attempting to bring  
6 Plaintiff to medical on that day, fraudulently claimed  
7 Plaintiff was refusing to go to medical and signed  
8 a form in Plaintiff's name indicating so.

9 In forging this document, Defendant Doe #5 denied  
10 Plaintiff the medical care for his eye infection he  
11 had been requesting for more than a month.

12 Because of this, Plaintiff eye infection worsened  
13 due to lack of treatment and he eventually lost  
14 his sight.

15 Officer John Doe #5 violated plaintiff's Eighth  
16 Amendment rights by denying him medical care and  
17 subjecting him to cruel and unusual punishment.

18 This is not an isolated incident. This has been the  
19 subject of many complaints, grievances, and litigation  
20 going as far back as 10 years. Discovery will bear  
21 out that this has been a long-standing and expressly  
22 noted repeated occurrences and Defendant Doe #5, having  
23 been advised of this in numerous meetings knew of and  
24 disregarded the excessive risk to prisoners posed by this  
25 practice.

(4)-HH

CV-22-00042-PHX-GMS(MTM)

1. Supervisory Liability for the Denial of Medical Care

2. Defendant Dison holds the supervisory position of  
 3. Grievance Coordinator. Her personal responsibilities include  
 4. the administrative oversight of the grievance  
 5. department and training, supervising, and controlling  
 6. grievance officers to ensure complaints and grievances  
 7. are assigned a case number and are forwarded to  
 8. the appropriate party (DO 802; U.S.C.A. 8; Lewis v. Casey,  
 9. 518 U.S. 343, 355, 116 S. Ct. 2174 (1996)). She does this  
 10. by personally training grievance officers in how to  
 11. respond to and properly process complaints and  
 12. grievances of all types, supervising and controlling  
 13. grievance staff to ensure compliance with ADCRR  
 14. policy, state and federal law.

15. Defendant Dison was grossly deficient of her  
 16. responsibilities because he was not aware but should have  
 17. been or was complicit in grievance staff not processing  
 18. complaints and grievances as required by DO 802, state  
 19. and federal law, and that these long-standing pervasive  
 20. and expressly-noted deficiencies (revealed over 10 years  
 21. of Parsons v. Ryan litigation) were adversely affecting  
 22. other areas of prison life, such as the denial of  
 23. medical care, as a result.

24. The grievance staff knew of these deficiencies  
 25. through more than 10 years of litigation, but their "knowledge  
 26. by inference" is supported by Farmer v. Brennan, 511 U.S.  
 27. 825 (1994) because these very same issues have  
 Grievance 4-11

CV-22-00042-PHX-GMS (MTM)

1. been repeatedly highlighted in multiple civil rights  
 2. lawsuits.

3. In spite of the presence of subordinate  
 4. grievance staff the Grievance Coordinator, as  
 5. supervisor, is ultimately responsible to ensure their  
 6. work is constitutionally adequate (Lewis; Hudson).

7. The grievance staff were grossly negligent because  
 8. the complaints and grievances were (1) forwarded to  
 9. the wrong personnel; not processed (ie, 2 emergency  
 10. grievances were refused processing outright); (3) not  
 11. responded to at all or not responded to in a timely manner;  
 12. or (4) ultimately designated as "unprocessed" to cut off  
 13. the complaints from reaching upper management (in  
 14. violation of DD 802.5.2.1-802.5.2.2.5 which grants  
 15. either "resolved" or "not resolved" as options available  
 16. to the grievance staff).

17. Defendant Dison does have supervisory liability  
 18. for failure to adequately train, supervise, and control  
 19. subordinates under City of Canton v Harris, 489 U.S. 378,  
 20. 389 109 S.Ct 1197 (1989); also Edgerly v City and County  
 21. of San Francisco, 495 F.3d 645, 660 (9th Cir. 2007) that  
 22. supervisors can be held liable for (1) their own culpable  
 23. action or inaction in the training, supervision, or control  
 24. of subordinates; (2) their acquiescence in the constitutional  
 25. deprivation of which a complaint is made; or (3) for  
 26. conduct that showed a reckless or callous  
 27. indifference to the rights of others (citation omitted)

Grievance

41-JT

CV-22-00042-PHX-GMS (MTM)

1. As soon as Defendant Dison "unprocessed" medical  
2. grievances that were not under her authority to handle  
3. She implicated herself. When her grievance staff  
4. repeatedly followed suit, they implicated her as well,  
5. establishing 1<sup>st</sup> and 8<sup>th</sup> Amendment violations.

6. This prison's current history has been documented  
7. and expressly noted as a pattern and practice by officials  
8. to deny medical care in violation of prisoners' 8<sup>th</sup> Amendment  
9. rights, and then to obstruct, silence, or "chill" prisoners  
10. 1<sup>st</sup> Amendment rights to file grievances about that  
11. constitutionally deficient healthcare through retaliatory  
12. actions.

13. Plaintiff alleges that these are not isolated occurrences.  
14. They are long-standing and pervasive, deliberate and  
15. conscious choices to inflict wanton and unnecessary  
16. pain.

17. Plaintiff alleges that Defendant has known of and  
18. disregarded the excessive risk to the health of  
19. prisoners posed by mishandling medical complaints  
20. and grievances through more than a decade of  
21. litigation and failures of this prison to meet court-  
22. ordered stipulations in Parsons v Ryan, CV-12-00601-  
23. PHX-Ros, an ADC prisoner class-action concerning the  
24. provision of medical care in ADCRR prisons. Her know-  
25. ledge by inference is supported by Farmer v Brennan,  
26. 511 U.S. 825 (1994) as these very same issues have  
27. been repeatedly highlighted as "long-standing, pervasive,  
Grievance **44K**

CV-22-00042-PHX-GMS(MTM)

1 well-documented and expressly noted as "so likely to result  
 2 in violations of constitutional rights" that the defendant  
 3 "can reasonably be said to be indifferent to the need" for more  
 4 or different training. Less than 15 percent of medical complaints  
 5 and grievances are processed according to policy, delaying much  
 6 needed medical aid, due to the deliberate indifference of  
 7 grievance staff and the lack of training, supervision, and  
 8 control of grievance staff.

9 This satisfies the supervisory liability and deliberate  
 10 indifference requirements under Farmer v. Brennan and  
 11 Blyden v. Mancusi, 186 F.3d 252, 264 (2d Cir 1999)(a  
 12 supervisor may be found personally involved in a deprivation  
 13 of rights in several ways... He may be liable because  
 14 he created a policy or custom under which  
 15 unconstitutional practices occurred, or allowed such a  
 16 policy or custom to continue... He, after learning of the  
 17 violation through a report or appeal may have failed to  
 18 remedy the wrong...)

19 Plaintiff alleges that the defendant knew of the  
 20 grievance policy deficiencies, that the grievances would  
 21 be designated "unprocessed" from multiple Parsons v. Ryan  
 22 reports, and also knew from those same reports that this  
 23 action would adversely affect the provision of constitutionally  
 24 adequate healthcare, and yet the defendant not only allowed,  
 25 the custom to continue but personally participated in it by  
 26 "unprocessing" medical grievances herself.

27 This is a deliberate, conscious choice that actually  
 Grievance **HELL**

CV-22-00042-PHX-GMS(MTM)

1 allowed Plaintiff's cries for help for obtaining medical care  
 2 to purposefully go unanswered for so long that it resulted in  
 3 the loss of his sight.

4 Plaintiff that these deliberate and conscious choices  
 5 by the Grievance Coordinator sufficiently states a claim for  
 6 supervisory liability for the denial of medical care due  
 7 to deliberate indifference.

8 Discovery will be necessary to ascertain this defendants  
 9 extent of liability. This is supported by Matzker v Herr,  
 10 748 F.2d 1142, 1147-48 (7<sup>th</sup> Cir 1984) (jail officials liable for  
 11 holding prisoner for 3 months but refused to provide treatment  
 12 for injured eye); see also Satchell v Dilworth, 745 F.2d  
 13 781, 786 (2d Cir 1984) (supervisors can be named as parties  
 14 "at least for purposes of identifying those of their  
 15 subordinates who are personally responsible for the  
 16 departmental actions complained of); Harvey v LaValley,  
 17 2009 WL 5219027, \*3 (N.D. N.Y., Dec. 31, 2009) (restating  
 18 rule permitting inclusion of supervisors as named  
 19 defendants for discovery purposes after Iqbal).

20 Finally, it has been held: "After Iqbal and Twombly,  
 21 court assessing sufficiency of complaint should ask:  
 22 if all facts Plaintiff alleges in his complaint are  
 23 accepted as true, but all conclusions are rejected,  
 24 is it still plausible (that is, more than speculation)  
 25 to believe that additional discovery will fill in  
 26 whatever gaps are left in the complaint?" Riley v  
 27 Vilsack, 665 F. Supp.2d 994, 2009 U.S. Dist. LEXIS  
 Grievance 

CV-22-00042-PHX-GMS(MTM)

1 98548 (W.D.Wis 2009)

2 The answer is yes, it is plausible that defendant  
3 failed in his supervisory duties to correct the same  
4 constitutional deficiencies that have plagued this  
5 prison for the last 10 years and that Plaintiff  
6 alleges still exist and cost him his sight. Yes, it is  
7 plausible that additional discovery will help fill in  
8 the gaps left in this complaint.

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Grievance 01NN

#### E. REQUEST FOR RELIEF

State the relief you are seeking:

- A. Declare the actions and inactions described herein violated Plaintiff's rights under the Constitution and the laws of the United States;
- B. Order Defendants to pay compensatory damages of \$5,000,000.00 (5 million dollars) and punitive damages of \$5,000,000.00 (5 million dollars) according to this Court's findings of liability;
- C. Order Defendants to pay reasonable attorneys fees and costs;
- D. Other just and equitable relief that this Court deems necessary.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March - 8 - 2022

DATE



SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

#### ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.

1. Shaun Andrew Peterson #298007  
2. ASPC Eyman Complex/Meadows Unit  
3. PO Box 3300  
4. Florence, Arizona 85132

5.  
6. UNITED STATES DISTRICT COURT  
7. DISTRICT OF ARIZONA

8.  
9. Shaun Andrew Peterson, CV-22-00042-PHX-GMS (MTM)  
10. Plaintiff CHIEF JUDGE G. MURRAY SNOW  
11. v AFFIDAVIT IN SUPPORT OF MOTION TO  
12. David Shinn, et al, ALTER, AMEND, OR RECONSIDER  
13. Defendants

14.  
15. AFFIDAVIT OF SHAUN PETERSON

16.  
17. 1. Shaun Peterson, affirm under penalty of perjury:

18.  
19. 1. I am the plaintiff in the above-numbered  
20. case, currently pending in the United States District  
21. Court for the District of Arizona.

22.  
23. 2. I am pro per

24.  
25. 3. I have lost complete sight in one eye and  
26. suffered irreparable damage to the other. I am  
27. legally blind. Eyeglasses cannot correct my sight  
AFFIDAVIT BY (I.)

CV-22-00042-PHX-GMS(MTM)

1. well enough to read with my damaged eye.
- 2.
3. 4. I go to the prison legal resource center when I
4. can to learn how to properly fill out this civil suit
5. complaint but I cannot see well enough to read the
6. books.
- 7.
8. 5. I must use someone else to write for me.
- 9.
10. 6. Because we keep having COVID outbreaks, we are
11. quarantined from other prisoners often. This means
12. I do not have access to other prisoners trained in
13. the law to help correct errors.
- 14.
15. 7. The contract paralegal is not meeting face-to-face
16. anymore. Everything must be explained over the telephone
17. now without being able to take or read notes.
- 18.
19. 8. The United States Court of Appeals for the Ninth
20. Circuit has instructed, courts must "continue to construe
21. pro se filings liberally." Hebbe v Plier, 627 F.3d 338,
22. 342 (9<sup>th</sup> Cir. 2010) see also Erickson v Pardus, 551 U.S. 89,
23. 94 (2007). How much more so for a blind prisoner
24. litigating essentially on his own.
- 25.
26. 9. This case rests heavily on post-legal findings allowing
27. inclusion of supervisors for discovery purposes in

AFFIDAVIT SP (2.)

CV-22-00042-PHX-GMS(MTM)

1. Harvey v. LaValley, 2009 WL 5219027, \*3 (N.D.N.Y., Dec. 31,  
 2. 2009) and Riley v. Vilsack, 665 F.Supp.2d 994,  
 3. 2009 U.S. Dist. LEXIS 98548 (W.D. Wis. 2009). It is not  
 4. a "fishing expedition." I believe discovery will aid me in  
 5. proving every allegation in this complaint.

6.  
 7. 10. I will need this Court's forbearance to do so, because  
 8. I cannot get all the procedures and formats exactly  
 9. right because I cannot read the legal resource library  
 10. books.

11.  
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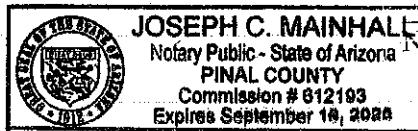
State of Arizona

County of Pinal

Subscribed and sworn/affirmed before me this 24  
day of Feb, 2022By SHAWN ANDREW PETERSON

(Name of Signer)

Shawn Andrew Peterson



AFFIDAVIT JP (3)